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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,433	01/25/2004	Jack R. Bratten	FSC-188	6084

7590
John R. Benefiel
Suite 100 B
280 Daines Street
Birmingham, MI 48009

02/24/2006

EXAMINER

REIFSNYDER, DAVID A

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary

Application No.

10/764,433

Applicant(s)

BRATTEN, JACK R.

Examiner

David A. Reifsnnyder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/8/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election **without** traverse of Invention I, Claims 1-8 and 11-15 in the reply filed on January 3, 2006 is acknowledged.

Claims 9 and 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 3, 2006.

Specification

The disclosure is objected to because of the following informalities: The continuing data for U.S. Serial No. 09/498,178 on page 1, paragraph [0001] and page 2, paragraph [0030] of the specification needs to be updated, because U.S. Serial No. 09/498,178, filed February 4, 2000 has issued as U.S. Patent No. 6,705,555 B1.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

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1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 6-8 and 11-15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,705,555 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-3, 6-8 and 11-15 of the instant application adds **obvious** limitations to claim 2 of U.S. Patent No. 6,705,555 B1.

Independent claim 1 of the instant application adds the limitation to claim 2 of U.S. Patent No. 6,705,555 B1 that the downwardly inclined bottom wall of the housing is **steeply** downwardly inclined. It is considered that it would have been obvious for claim 2 of U.S. Patent No 6,705,555 B1 to add the limitation that the downwardly inclined bottom wall of the housing is **steeply** downwardly inclined, so as to prevent the open channel flow from slowing down.

Dependent claim 2 of the instant application adds the **further** limitation to claim 2 of U.S. Patent No. 6,705,555 B1 that the downwardly inclined bottom wall of the housing is downwardly inclined to descend three inches. It is considered that it would have been obvious for claim 2 of U.S. Patent No 6,705,555 B1 to add the limitation that

the downwardly inclined bottom wall of the housing is downwardly inclined to descend three inches, so as to prevent the open channel flow from slowing down.

Dependent claim 3 of the instant application adds the **further** limitation to claim 2 of U.S. Patent No. 6,705,555 B1 that the weir edge includes an **upwardly inclined guide partition**. It is considered that it would have been obvious for the weir edge in claim 2 of U.S. Patent No. 6,705,555 B1 to include an **upwardly inclined guide partition** to guide the open channel flow over the weir edge.

Dependent claims 6 and 7 of the instant application adds the **further** limitation to claim 2 of U.S. Patent No. 6,705,555 B1 that the bladed wheel includes a **reverse** rotation device. It is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention for the bladed wheel of claim 2 of U.S. Patent No. 6,705,555 B1 to have included a **reverse** rotation device so as to make sure that the bladed wheel always rotates in the same direction. (i.e. the forward direction)

Dependent claim 8 of the instant application adds the **further** limitation to claim 2 of U.S. Patent No. 6,705,555 B1 that each blade of is constructed of **two thin metal sheets clamped together**. It is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention each blade of the bladed wheel of claim 2 of U.S. Patent No. 6,705,555 B1 to be made of **two thin metal sheets clamped together**, because blades are commonly made of clamped metal sheets.

Independent claim 11 of the instant application adds the limitation to claim 2 of U.S. Patent No. 6,705,555 B1 that the bladed wheel includes a **reverse** rotation device. It is considered that it would have been obvious for the bladed wheel of claim 2 of U.S.

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Patent No. 6,705,555 B1 to have included a reverse rotation device so as to make sure that the bladed wheel always rotates in the same direction. (i.e. the forward direction)

Dependent claim 12 and Independent claims 13-15 of the instant application adds the limitation to claim 2 of U.S. Patent No. 6,705,555 B1 that the drive motor is mounted in a housing tray affixed to a side wall of said housing. It is considered that it would have been obvious for the drive motor of claim 2 of U.S. Patent No. 6,705,555 B1 to be mounted in a housing tray affixed to a side wall of a housing, so as to keep the drive motor protected and clean.

Claims 4 and 5 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No 6,705,555 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 4 and 5 of the instant application add obvious limitations to claim 6 of U.S. Patent No. 6,705,555 B1.

Dependent claims 4 and 5 of the instant application adds the limitation to claim 6 of U.S. Patent No. 6,705,555 B1 that the bottom wall of the housing is steeply downwardly inclined. It is considered that it would have been obvious for claim 2 of U.S. Patent No 6,705,555 B1 to add the limitation that the bottom wall of the housing is steeply downwardly inclined to prevent the open channel flow from slowing down. Furthermore, claims 4 and 5 adds obvious limitations to the hub structure that are not claimed in claim 6 of U.S. Patent No. 6,705,555 B1.

Claims 1-8 and 11-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No.10/394,513. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-8 and 11-15 of the instant application adds **obvious** limitations to claim 1 of copending Application No.10/394,513. Furthermore, it is noted that claim 1 of copending Application No. 10/394,513 claims additional elements that are not in claims 1-8 and 11-15; however, claims 1-8 and 11-15 are **open** and therefore fully encompass the additional elements that are claimed in claim 1 of copending Application No.10/394,513.

This is a **provisional** obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-8 and 11-15 of the instant application add the limitation to claim 1 of copending Application No.10/394,513 that the bottom wall of the housing is **steeply downwardly inclined**. It is considered that it would have been obvious for claim 1 of copending Application No.10/394,513 to add the limitation that the bottom wall of the housing is **steeply downwardly inclined** to prevent the open channel flow from slowing down.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Bratten '735 who discloses a collection system for collecting coolant and chips from a series of machine tools for cleaning the coolant in a filter system and recirculating the coolant back to the machine tools. Smith et al. who

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discloses a coolant supply and recycle system and method for cleaning used machine tool coolant and returning it to the machine tools for reuse.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David A Reifsnyder
Primary Examiner
Art Unit 1723

DAR